



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

WILL WILSON
ATTORNEY GENERAL

July 11, 1957

Hon. Les Procter
District Attorney
Austin, Texas

Opinion No. WW-183.

Re: Whether a member of the State Highway Patrol would be eligible for the position of parole officer under the Adult Probation and Parole Law of 1957, Senate Bill 154, Acts 55th Leg., 1957, Ch. 226, p. 466, assuming that such officer resigned his position as a State Highway Patrolman prior to appointment as a parole officer.

Dear Sir:

You have presented for our determination the question of whether a member of the Texas Highway Patrol, in view of Section 31 of S.B. 154, Acts 55th Leg., 1957, Ch. 226, p. 466, would be eligible for appointment as a parole officer under such a statute, assuming he resigned his position as a highway patrolman prior to his appointment as such parole officer.

Section 31 reads as follows:

"No person who is serving as a sheriff, deputy sheriff, constable, deputy constable, city policeman, Texas Ranger, state highway patrolman, or similar law enforcement officer, or as a prosecuting attorney, assistant prosecuting attorney or investigator for a prosecuting attorney, shall act as a parole officer or be responsible for the supervision of persons on parole."

It is to be noted that throughout Section 31 the present tense is used, and the section can be read, "No person who is presently serving as a . . . State highway patrolman . . . shall act presently as a parole officer or be responsible for the supervision of persons on parole." It is our interpretation of this section, and we believe it to be the intent of the Legislature, that the named officers should not act at the same time as a parole officer under this law, and that the situation which Section 31 prohibits is the supervision of persons on parole by persons then serving as law enforcement officers. Accordingly, if the highway patrol officer or sheriff, or constable, or any of the other named officers in Section 31 were to

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resign his position prior to accepting appointment as a parole officer, we see no reason why he should not be able to serve as such.

Accordingly, it is our opinion that an officer presently serving as a member of the Texas Highway Patrol would be eligible for appointment as a parole officer under the provisions of S.B. 154, Acts 55th Leg., 1957, Ch. 226, p. 466, in the event he resigned his position with the Texas Highway Patrol prior to his appointment as a parole officer.

SUMMARY

Section 31 of S.B. 154, Acts 55th Leg., 1957, Ch. 226, p. 466, would not prohibit the appointment of a member of the Texas Highway Patrol as a parole officer under such statute, provided such highway patrolman resigned his position with the Highway Patrol prior to his appointment as a parole officer.

Very truly yours,

WILL WILSON
Attorney General of Texas

By 
John Minton
Assistant

JM:wb

APPROVED:

OPINION COMMITTEE

H. Grady Chandler, Chairman
Marietta McGregor Payne
Wayland C. Rivers, Jr.
Roger I. Daily

REVIEWED FOR THE ATTORNEY GENERAL

BY: Geo. P. Blackburn